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Ms. Magalie Roman Salas
Federal Communications Commission
445 Twelfth Street, SW
Room TW-A325
Washington, DC 20554

Re: CC Docket No. 98-147

Dear Ms. Salas:

Bluestar Communications files this letter as a follow up to your meeting with various CLECs on October 13, 1999 to discuss Sprint's Petition For Reconsideration in Docket No. 98-147. The Commission should establish strict time limits for the processing of, at least cageless, collocation applications because BellSouth refuses to include them in its contracts and has consistently failed to meet any reasonable deadlines such as 90 calendar days from the date of the application. In Florida, BellSouth initially offered dates that were over eight months after the initial application. In North Carolina where the initial dates were five months after the application, there is now a further delay of a month because BellSouth did not order cable racking soon enough. Only a hard and fast rule with severe penalties for unjustified delays will incent the ILECs to "just do it" instead of supplying endless excuses. Indeed setting time frames for collocation may represent the most important pro-competitive activity that the Commission can undertake. CLECs can temporarily pay for excessive charges, but if they cannot get collocation space completed in a timely fashion they cannot compete at all.

Bluestar has attached a copy of its complaint to the Florida PUC regarding BellSouth's incredible delays in that state. In summary Bluestar has made over 40 applications for cageless collocation in Florida with seven filed on May 7, 1999 and eight in June. BellSouth never even quoted any of these until August and finally offered some space acceptance dates in January 2000. One of the principle reasons given for the recent delays was the need to apply for and receive permits. At Bluestar's urging, after filing of the complaint, BellSouth met with the Jacksonville permit office and now agrees that permitting will only take 15 days in Jacksonville. Regardless, why wait until September to apply for permits for an application filed in May. Bluestar also offered to cut down the size of its requested space from 12 bays to three to speed up the process, but BellSouth insisted that any changes would only slow down the completion of the space. This ridiculous attitude permeates the entire BellSouth collocation activity. They refuse to allow any of the normal refinements of a construction project without formal paperwork, additional fees and delays. Instead of encouraging informal activity to resolve issues and facilitate collocation, BellSouth grafts on more bureaucracy to increase the cost of the process and slow it down. BellSouth has also refused to allow Bluestar employees to examine these costs and to attempt to cooperatively work out some type of space in a few offices. Because of these extensive delays Bluestar has ten employees in Jacksonville essentially doing nothing.

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Even some of the recent state rules may not provide enough incentive for speed because they allow for loopholes. Florida has required that collocation occur within 90 days after a firm order. This allows BellSouth to stall the processing of the initial application, as they have in Florida, and double the processing time by simply spending as much time on the quote as on preparing the space. This problem can be alleviated by suggesting that states price cageless collocation on an average basis per bay for various types of CO configurations, so that there is no quote process at all. A CLEC would then order collocation just as it orders loops, etc. The other option is to create a rule covering start to finish calendar days as long as the CLEC executes the firm order within a defined period, such as a week after receiving the quote. Various states such as Minnesota have already implemented these types of pricing. Some contracts also include a not to exceed price with a true after all construction and space preparation has occurred.

BellSouth's performance in other states is better, but the average processing time for the 180 applications that Bluestar has filed is 60 days for the quote and 90 days between firm order and projected space acceptance. Most of the space acceptances have not occurred yet so that further delay is possible. Recent North Carolina experience highlights this problem and the simple lack of creative effort by BellSouth to complete projects. Bluestar also filed eight applications in North Carolina on May 7. After expensive delays in quotation and response to the firm order, Bluestar was gratified to receive space acceptance dates in mid October. Recently BellSouth claimed that it was informed by its vendor preparing cageless lineups in Charlotte, that there would be a month's delay because of a shortage of cable racking. Bluestar called a supplier that afternoon and found enough cable racking to provision all the Charlotte offices and now BellSouth is evaluating the supplier. If Bluestar can find racking in one afternoon, it seems that BellSouth could have put more pressure on its vendor in the first place, to complete the job on time. Because of the early application dates, Bluestar again hired a sales staff in Charlotte, which essentially now sits on its hands waiting for BellSouth.

Anyone can offer endless excuses for not completing jobs, but a multi billion dollar corporation like BellSouth should have the force and creativity to meet some type of schedule. Indeed BellSouth frequently quotes this Commission's failure to set time limits as an excuse to refuse to include them in BlueStar's interconnection contracts. They also know that state and federal complaints cannot cure the pain they impose on CLECs in delaying collocation and use this delay to give them the upper hand in negotiations. Possession is nine points and only a firm rule with extensive fines and speedy dispute resolution can offset this advantage. Bluestar has requested that BellSouth appoint a permanent private arbitrator resolve disputes, but BellSouth refuses. The Commission can only guess at the reasons for this additional refusal to move quickly. Speedy private resolution of disputes would reduce the Commission workload and increase competition.

Sincerely,



Norton Cutler
Vice President Regulatory
and General Counsel

cc: William Kehoe

NC:mmc